

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4022 OF 1998

1. Smt. Shevanta Rama Waingade

2. Dattatraya Vithal Patil

3. Maruti Bhagoji Nandawadekar

4. Baloo Ravaji Waingade

6. Pandurang Ranaba Waingade

7. Suresh Sabarao Patil

All are residing at Post-Kumari,

Tal. Gadhinglag, Dist: Kolhapur. Petitioners

- Versus -

1. The State of Maharashtra

2. Sub-Divisional Officer,

Gadhinglag Division,

Taluka: Gadhinglag,

District: Kolhapur.

3. The Bank of India,

Nesari Branch, Taluka

Gadhinglag, Dist: Kolhapur.

.... Respondents

Shri A.D. Thorat for the Petitioners.

Ms M.P. Thakur, Asst. Government Pleader,

for the Respondent Nos.1 and 2.

CORAM: R.M.S. KHANDEPARKAR &

V.M. KANADE, JJ.

DATED: SEPTEMBER 14, 2005

ORAL JUDGMENT (Per R.M.S.Khandeparkar, J.):

1. Heard. The petitioners challenge the amended award dated 2-7-1998 on the ground that the amendment of the nature which has been carried out is not permissible in terms of the provisions of law comprised under Section 13A of the Land Acquisition Act, 1894, hereinafter referred to as "the said Act" and secondly that the same has been passed without notice to the petitioners.

2. The undisputed facts in the case in hand are that the final award was passed on 28-5-1998. However, thereafter notices were issued in terms of Section 13A(2) regarding amendment carried out to the award on 2-7-1998. The amendment related to the calculation of the final amount of compensation payable to the interested persons.

3. The learned Advocate appearing for the petitioners submitted that once the final award was passed, it was not permissible for the Land Acquisition Officer to amend the award without prior notice to the petitioners or the interested persons and in no case the compensation could have been altered in exercise of the

powers under Section 13A of the said Act. The learned AGP appearing on behalf of the respondent Nos.1 and 2, however, submitted that the amendment which has been carried out, merely relates to the calculation of the compensation as it was an arithmetical error within the meaning of the said expression under Section 13A and, therefore, the necessary corrections were carried out in accordance with the provisions of law and, therefore, no fault can be found with the amended award.

4. It is not in dispute that the amendment which has been carried out is merely to the quantification of the final amount of compensation awarded to the parties whose land was acquired pursuant to the Notification issued under Section 4 of the said Act which culminated in the award dated 28-5-1998. Perusal of the impugned award dated 2-7-1998 also discloses that the changes which have been brought about in the final award are based on appropriate arithmetical calculation in relation to the final amount of the compensation payable to the petitioners and the interested parties. Being so, the learned AGP is justified in submitting that it is a mere correction of arithmetical error in relation to the calculation of the compensation payable to the parties.

5. The Section 13A of the said Act reads thus:-

"13A. Correction of clerical errors,
etc.

(1) The Collector may, at any time but not later than six months from the date of the award, or where he has been required under section 18 to make a reference to the Court, before the making of such reference, by order, correct any clerical or arithmetical mistakes in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority:

Provided that no such correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making a representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result

of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered as an arrears of land revenue."

6. The Section 13A clearly empowers the Collector to make corrections of any clerical or arithmetical mistakes in the award and the error arising therein, either on his own motion or on application of any person interested. The amended award on the face of it discloses that the mistake in the matter of arithmetical calculation of compensation was brought to the notice of the Land Acquisition Officer within the period of six months from the date of the final award and therefore the necessary corrections were carried out in relation to the quantum of the compensation payable to the parties.

7. Undoubtedly, if the corrections were to affect prejudicially to the petitioners, certainly no such correction could have been carried out unless opportunity of making representation in the matter was offered to the petitioners before effecting such corrections in the award. It is not the case of the petitioners that the corrections in the award have affected the petitioners prejudicially. In fact, as

already stated above, the corrections are on account of arithmetical mistake in calculation of the amount of compensation. The corrections carried out do not relate to any right to compensation or interest in the property or of any other substantial nature in relation to any decision or the conclusions arrived at on the points dealt with in the award. It is a simple correction of the final figure of the compensation which was earlier, by arithmetical mistake, wrongly calculated. There is no question of any prejudice in such cases, unless the arithmetical calculation in such process of correction of award is shown to be incorrect. There is no such grievance in the matter in hand.

8. On the contrary, the statutory provisions comprised under sub-section (2) of Section 13A specifically provide that whenever any correction is made in the award, the Collector shall immediately give notice of such correction to the persons interested. It is not in dispute that immediately after carrying out the corrections, the petitioners and all the interested persons were accordingly informed by notices dated 2-7-1998. The petitioners have not been able to disclose that the correction carried out in the matter has prejudicially affected them in any manner. For the purpose of such corrections, unless it could affect prejudicially to the party concerned, there can be no occasion for issuance of any prior notice as such to the

parties or requirement of prior hearing in the matter. Being so, the power exercised for amending the award was squarely in terms of the provisions of law comprised under Section 13A of the said Act.

9. For the reasons stated above, we do not find any illegality committed by the authority in correcting the award in question and hence there is no case for interference in writ jurisdiction. Hence the petition fails and is hereby dismissed. The rule is discharged with no order as to costs.

(V.M. Kanade, J.)

(R.M.S. Khandeparkar, J.)